

HOUSE BILL REPORT

HB 2360

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to studying small loans.

Brief Description: Studying small loans.

Sponsors: Representatives Appleton, Moeller, Morrell, Lantz, Darneille, McIntire and Green.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/31/06, 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Requires the Director of the Department of Financial Institutions (Director) to study payday loans and determine the amount of fees or interest necessary to enable payday lenders to cover their costs of doing business.
- Authorizes the Director to request from licensees information required to complete the study and report to the Legislature.
- Requires licensees to provide the requested information.
- Requires the Director to report back to the Legislature by November 30, 2006.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kirby, Chair; Ericks, Vice Chair; O'Brien, Santos, Simpson and Williams.

Minority Report: Do not pass. Signed by 5 members: Representatives Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Serben and Strow.

Staff: Jon Hedegard (786-7127).

Background:

Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act), Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, high interest, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. In a typical payday loan

transaction, the consumer writes the lender a post dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The Act regulates payday lending practices and provides for regulation of licensees who are specifically authorized to issue small loans. No lender may lend more than \$700 to a single borrower at any one time. The lender may charge up to 15 percent for the first \$500. If the borrower has a loan in excess of \$500, the lender can charge up to 10 percent on the amount over \$500. For example, a lender could charge up to \$30 for a \$200 loan or up to \$85 for a \$600 loan.

Under the Act, licensees must maintain business books, accounts, and records. The books and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business governed by Chapter 31.45 RCW.

Borrower and lenders may agree to a payment plan for payday loans. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:

- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loans; and
- the borrower must be allowed to pay off the loan in at least three payments.

The Director of the Department of Financial Institutions (Director) may impose the sanctions against any:

- licensee;
- applicant, or
- director, officer, sole proprietor, partner, controlling person, employee of a licensee, or applicant.

Sanctions may include:

- the denial, revocation, suspension, or conditioning of a license;
- an order to cease and desist from specific practices;
- the imposition of a fine not to exceed \$100 per day for each day's violation;
- the provision of restitution to borrowers or other injured parties; and
- the removal from office or banning from participation in the affairs of any licensee.

Summary of Substitute Bill:

The Director must study the economics, business models, and practices associated with the small loan business operations of lenders with small loan endorsements. The Director must determine break-even points for small loan businesses included in the study, grouped by size of operation and/or volume of business. When making these determinations the Director may make reasonable assumptions as to the expenses to be considered, including but not limited to the impact of fees, bonds, assessments, taxes, employee medical insurance expenses, rent, and other business location costs, and advertising costs.

The Director is authorized to request licensees to provide information required to complete the study. Licensees are required to provide the requested information. A licensee's unreasonable failure to provide the information requested by the Director is grounds for an enforcement action and the imposition of the sanctions.

The Director must report to the Legislature no later than November 30, 2006. The Director may also study other issues related to small loans and include those issues in the report. The Director may include recommendations based upon the findings in the report.

Substitute Bill Compared to Original Bill:

The language regarding what will be studied by the Director is modified. Several specific expenses may be considered by the Director in making determinations. The Director is authorized to request information from licenses for the study. Licensees are required to provide the information. Unreasonable failure to provide requested information is grounds for sanctions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (In support) There has not been a study of the break-even point of payday lenders. The minimum interest rate on a payday loan is extremely high. Most borrowers are financially illiterate. Payday lending should be studied. Perhaps after doing the study, the Legislature may want to limit the interest rate on these loans. This bill is very necessary. It attempts to regulate increase regulation of payday lenders. The Department of Defense (DOD) is contemplating putting all payday lenders off-limits for military personnel. That would be far more significant and harmful to the payday lenders than this bill. Everyone has a right to consumer protections that are fair and reasonable. Washington law does not provide enough protection and borrowers can find themselves in deep debt. A client could not pay a bill. They borrowed from a payday lender. They found themselves unable to pay the loan. A cap on interest is a reasonable solution. We need to know more about this subject.

(With concerns) The DFI would need clear authority to compel the information. That is not present in the bill. The short five month timetable to do the report is also a concern.

Testimony Against: A single break-even point isn't possible to determine. It varies from business to business and from time to time. How would the DFI calculate health insurance costs or rent over time? There are better ways to learn some of this information. There are eight publicly traded companies. There was a Federal Deposit Insurance Corporation that did a study on the subject of payday lenders and the rates they charge. That study justified a high annual percentage rate. Additionally, it is unclear what is the purpose of the study in the bill. What is the goal? Why should the profitability of payday lenders matter any more than the profitability of other businesses?

Persons Testifying: (In support) Representative Appleton, prime sponsor; Julie Watts, Statewide Poverty Action Network.

(With concerns) Chuck Cross, Department of Financial Institutions.

(Against) Dennis Bassford, Moneytree.

Persons Signed In To Testify But Not Testifying: None.